IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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Writ Petition No. 3705 of 2005

Between:

M/s Laxmi Old Iron and General Merchants, rep. by its

Proprietor-B.L.Naidu, Son of Kannapalla Naidu,
R/o.Dr.No.20-6-217, Babuji Nagar, New Paloncha,

Khammam District.

..... PETITIONER

AND

1. M/s. Indian Tobacco Company Limited, rep. by its General

Manager (Commercial), P.S.P. Division, Bhadrachalam House,

H.No.106, S.P.Road, Secunderabad.
2. M/s. Wipro Limited rep. by its E-Auction Committee,

01-Market, 30 Divyasri Mansion Road, 01 Main, S.R.Nagar
Bangalore-77.
3. The Manager, Indian Tobacco Company Limited,

P.S.P.Division, E-Auction Committee Member,

Bhadrachalam House, H.No.106, S.P.Road, Secunderabad.
4. The Manager-Materials, Indian Tobacco Company Limited,

Sarapaka, Bhadrachalam, Khammam District.
5. The Accounts Officer, Scrap Committee Member,

Indian Tobacco Company Limited, Sarapaka, Bhadrachalam,

Khammam District.
6. The Scrap Committee Chair Person, Indian Tobacco Company

Ltd., Sarapaka, Bhadrachalam, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue appropriate directions, orders and more particularly in nature of writ of Mandamus declaring that the acts, deeds and things of the respondents in not finalising the contracts and awarding the contracts to the petitioner, in pursuance of final bid price communication dt.29.12.2004 of the respondents for the contracts of the year 2005, for lifting scrap materials from the respondents at Bhadrachalam Paper Boards, Sarapaka, Bhadrachalam, Khammam District of Polythene Bags, Platic Strip Scrap and MS/GI Binding Wire, under lot No.2 for miscellaneous scrap, are illegal, arbitrary, against to law, against to the principles of natural justice and much against to the legal and fundamental rights guaranteed under the Constitution of India and consequently direct the respondents to finalise the contracts and award the contracts for the year 2005 to the petitioner, in pursuance of final bid price communication dt.29.12.2004 of the respondents for lifting scrap materials of polythene Bags, Plastic Strip Scrap and MS/GI Binding Wire under lot No.2 for miscellaneous scrap from the respondents at Bhadrachalam Paper Boards, Sarapaka, Bhadrachalam, Khammam District.

Counsel for the Petitioner: MR. PALIVELA SATYARAJA BABU

Counsel for the Respondent Nos.1, 3 to 6:SMT.M.BHASKARA LAKSHMI

Counsel for the Respondent No.2: NONE APPEARED

The Court made the following :

O R D E R :

This writ petition has been filed by M/s Laxmi Old Iron and General Merchants, represented by its Proprietor-B.L.Naidu, Son of Kannapalla Naidu, with a prayer to issue appropriate directions, order and more particularly one in the nature of writ of Mandamus declaring the acts, deeds and things of the respondents in not finalising the contracts in pursuance of final bid price communication dated 29.12.2004 for the year 2005 for lifting scrap materials from the respondents at Bhadrachalam Paper Boards, Sarapaka, Bhadrachalam, Khammam District, of Polythene Bags, Plastic Strip Scrap and MS/GI Binding Wire, under lot No.2 for miscellaneous scrap, as illegal, arbitrary and in violation of the principles of natural justice.

2. A counter affidavit has been filed on behalf of the respondents 1, 3 to 6. One Sanjay Singh has sworn to the counter affidavit. It is stated in the counter affidavit that the writ petitioner after cancellation of the bid, withdrew the Earnest Money Deposit (E.M.D.) amount of Rs.10,000/-. I deem it appropriate to refer para.8 of the counter affidavit and it is thus:

> "The respondents-Company respectfully submits that M/s. Rajya Lakshmi Iron and General Merchant played a mischief on the Company in withdrawing the E.M.D. amount of Rs.10,000/- by representing that he would deposit the said amount towards the security deposit, in terms of agreement dated 01.02.2005. In spite of entering into the agreement, M/s. Rajya Lakshmi Iron and General Merchant did not bother to execute the same, as he withdrew the E.M.D. and had not deposited any amount towards the security deposit."

3. The fact that the E.M.D. amount of Rs.10,000/- has been withdrawn by the petitioner is not controverted by the learned Counsel appearing for the petitioner. Such is the case, the writ petition does not survive and the same is liable to be dismissed.

4. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 24th June, 2005.

NOTE:

Issue C.C. within a week.

B/O

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The General Manager (Commercial), M/s. Indian Tobacco

Company Limited, P.S.P. Division, Bhadrachalam House,

H.No.106, S.P.Road, Secunderabad.
2. The E-Auction Committee, M/s. Wipro Limited, 01-Market,

30 Divyasri Mansion Road, 01 Main, S.R.Nagar, Bangalore-77.
3. The Manager, Indian Tobacco Company Limited,

P.S.P.Division, E-Auction Committee Member,

Bhadrachalam House, H.No.106, S.P.Road, Secunderabad.
4. The Manager-Materials, Indian Tobacco Company Limited,

Sarapaka, Bhadrachalam, Khammam District.
5. The Accounts Officer, Scrap Committee Member,

Indian Tobacco Company Limited, Sarapaka, Bhadrachalam,

Khammam District.
6. The Scrap Committee Chair Person, Indian Tobacco Company

Ltd., Sarapaka, Bhadrachalam, Khammam District.

7. 2 CD copies

8. 1 CC to SMT.BHASKARA LAKSHMI

*Form-NIC-OGS/WP{**MPL**}*